

REMARKS

The Examiner is thanked for thoughtful review of applicants' application and Amendment, and his detailed response thereto.

Applicants believe this amendment complies with the revised amendment format that is an expansion of the special amendment process instituted for a prototype Electronic File Wrapper program described in USPTO ANNOUNCES PROTOTYPE OF IMAGE PROCESSING, 1265 Off. Gaz. Pat. Office 87 (Dec. 17, 2002).

Claims 1 - 8, 10 - 14, and 17 - 20 are all pending. Claims 6, 10, 17 - 20 have been amended. Claims 9 and 21 - 28 are cancelled. New claims 29-32 have been added.

Rejection Under 35 U.S.C. §102(e)

In section 3 of the Office Action, the Examiner rejected claims 1 - 4, and 6 - 8 under 35 USC §102(e) as being anticipated by Crooks et al, U.S. Patent No. 6,052,671 ('671)

Importantly, the Examiner stated that the reference discloses "receiving a utility reading, the utility reading being a measure of the usage of the utility by a customer, wherein the utility reading is received from a first remote location across a first transmission medium" (referring to figure 7, column 2, lines 5 - 30, and figure 12) and "determining an amount, wherein the amount is determined using the utility reading" (referring to figure 12). In section 2 of the Office Action, the Examiner stated "figure 12 (124) clearly discloses a meter reading of 58,113Kwh as a measure of usage."

The Applicants respectfully suggest that figure 12 does not disclose nearly enough information to render a *prima facie* case of anticipation. Even assuming *arguendo* that the "58,113 KWh" was determined from a utility reading as opposed to some other mechanism (e.g., an estimate of usage), there is absolutely no suggestion that the \$3,490.79 listed in the "Amount" column was derived directly from the number in the "Quantity" column by the system displaying the information. In fact, such a calculation would be highly unlikely and counterproductive in the system described in the '671 reference.

The sections of the ‘671 reference identified by the Examiner describe a bill consolidation system that presents a billable entity with a single bill for various utilities. Almost by definition, a bill consolidation system does not generate bills for a single utility, but consolidates bills once they are received. There is no reason to believe that the \$3,490.79 amount was calculated by anyone other than the utility company. In order for the consolidation company to generate the same amount, it would need access to all of the utility company’s records, including variable rate information for utilities that charge different amount at different times of the day, schedules of usage, information to calculate taxes and other service charges, etc. The identified sections of the ‘671 reference do not suggest the bill consolidation system makes any such calculations.

By contrast, independent claim 1 requires receiving a utility reading from a first remote location, determining an amount from the reading, and finally transmit that amount to a second remote location. Even if the consolidation system of the ‘671 reference receives a utility reading from a first location and transmits an amount to a second location, there is simply no evidence to support a conclusion that the consolidation system additionally determines an amount from the reading.

The Applicant believes that, for at least these reasons, claim 1 clearly distinguishes itself from the cited prior art. It is additionally noted that claims 2 - 8 depend either directly or indirectly from independent claim 1 and, as such, are allowable for at least the same reasons as those stated above.

Additionally, it is noted that claim 4 further includes the requirement of “receiving address information associated with a location of the smart meter.” The Examiner stated that “Crooks et al (‘671) further discloses multiple sites associated with a customer, see figure 7 (58a-c), and receiving address information associated with a location of a meter, see figure 9 (110).” The Applicant submits that neither figure 7 nor figure 9 teach anything related to associating the location of a meter with address information. As previously discussed, the system of Crooks et al requires final bills, and would have no need for an association between address information and a smart meter location. Merely because the consolidation system has customer address information does not lead to the conclusion that the consolidation system additionally has information about the specific meters being used. Elements 58a - 58c in figure 7 merely show that a single consumer may have several properties that use utilities, and is silent as to the particular utility meters at each property.

In section 4 of the Office Action, the Examiner rejected claim 17 under 35 USC §102(e) as being anticipated by Chasek, U.S. Patent No. 5,894,422 ('422).

The Examiner identified a “connection mechanism being coupled to the processor-memory unit” as being disclosed in column 4, line 31 to column 5, line 13, and “wherein the connection mechanism is further arranged to send the message to the substantially remote receiving device” as being disclosed in column 2, lines 5 - 36.

Claim 17 requires the connection mechanism to be part of the “apparatus for monitoring the usage of a utility” and “coupled to the processor-memory unit.” Clearly, the only element in the ‘422 reference that is part of the smart meter is the “low power radio transmitter 111a” (Col. 4, line 37). A low power radio transmitter would be incapable of sending a message to a remote receiving device. In fact, the section identified by the Examiner specifically teaches away from a connection mechanism that sends messages to remote locations. Instead, a “remote terminal on the consumer’s premises,” (Col. 2, line 23), provides the function of transmitting messages to a “terminal point” (Col. 2, line 33). Since the remote terminal is not “coupled to the processor-memory unit” or part of the “apparatus for monitoring the usage of a utility,” it cannot be used as an analogue to the “connection mechanism” element that is required by independent claim 17.

The Applicant believes that, for at least these reasons, claim 17 clearly distinguishes itself from the cited prior art. It is additionally noted that defendant claims 18 and 19 depend directly from independent claim 17 and, as such, are allowable for at least the same reasons as those stated above.

Rejections Under 35 U.S.C. §103

In section 5 of the Office Action, the Examiner, under 35 U.S.C. § 103(a), rejected claim 5 as being obvious to Crooks et al in view of Chasek.

As has been already discussed in connection with independent claim 1, Crooks et al does not teach either determining an amount from the utility reading or associating a utility meter with a customer address. The Applicant believes that, for at least these reasons, claim 5 clearly distinguishes itself from the prior art.

In section 7 of the Office Action, the Examiner, under 35 U.S.C. § 103(a), rejected claims 10 - 14, and 19 - 21 as being obvious to Chasek in view of Frew et al.

In discussing claim 10, the Examiner stated that Col. 2, lines 6 - 14 of Chasek discloses “transmitting the utility message to the processing center.” Although Chasek describes a remote terminal transmitting demand messages to a terminal point, the Applicant submits that Chasek does not teach a utility meter transmitting a utility message to a processing center. Independent claim 10 clearly describes “information being provided from a utility meter to a processing center.” A utility meter that transmits utility messages directly to a processing center is not the same as an intermediary remote terminal that performs that function.

Furthermore, the purpose of the system described in the ‘671 patent is to provide a consolidated bill to a consumer. However, if a credit or debit transaction was used, there would be no need to consolidate bills since the utility bill would already be paid. Furthermore, a credit or debit card billing statement automatically consolidates bills, providing a consumer with a single bill that lists all charges made in the previous month from a variety of merchants. Therefore, the Applicant believes that there would be no motivation to combine the consolidation system of the ‘671 patent with credit or debit transactions.

The Applicant believes that, for at least these reasons, claim 10 clearly distinguishes itself from the prior art. It is additionally noted that defendant claims 11 - 14 depend directly from independent claim 10 and, as such, are allowable for at least the same reasons as those stated above.

In discussing claim 13, the Examiner stated, “Chasek (‘422) does not specifically disclose the utility meter, wherein configuring the utility meter includes entering one of a credit account number and a debit account number into the utility meter. Frew et al (‘632) teaches a meter coupled to a card reader, see figure 1 (26) and column 3, line 6 for the benefit of consumer convenience of payments and prepayment requirement processing.” It is submitted that the Examiner did not make any finding as to the requirement of “configuring the utility meter.” Configuring a utility meter is substantively different from enabling credit card payments to be made through a credit card reader.

In discussing claim 14, the Examiner stated, “Chasek (‘422) does not specifically disclose generating a utility message includes creating a second message field including one of a credit account number and a debit account number. Frew et al (‘632) teaches a meter coupled to a card reader, see figure 1 (26) and column 3, line 6 for the benefit of consumer convenience of payments and prepayment requirement processing.” As previously mentioned, independent claim 10 clearly requires “information being provided from a utility meter to a processing center.” A utility meter that creates a second message field for credit account number or a debit account is not the same as a credit card reader separate and apart from the utility meter that generates such messages.

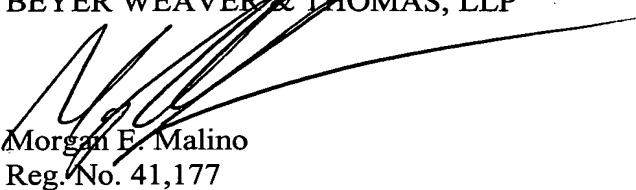
Similarly, in discussing claim 20, the Examiner stated, “Chasek (‘422) does not specifically disclose the processing mechanism further being arranged to effect at least one of a credit transaction and a debit transaction associated with the measure of utility. Frew et al (‘632) teaches a meter coupled to a card reader, see figure 1 (26) and column 3, line 6 for the benefit of consumer convenience of payments and prepayment requirement processing.” However, a utility meter that effects either credit or debit transactions is not the same as a credit card reader separate and apart from the utility meter that effects such transactions.

The Applicant believes that, for at least these reasons, claims 10 - 14, and 20 clearly distinguish themselves from the prior art. Dependant claim 19 was previously discussed in connection with claim 17 above.

In section 8 of the Office Action, the Examiner, under 35 U.S.C. § 103(a), rejected claim 18 as being obvious to Chasek in view of Roos, U.S. Patent No. 5,699,276. Dependant claim 18 was previously discussed in connection with claim 17 above.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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